

**REMARKS**

Claims 1-3 and 5-32 are pending. Claims 1, 3, 5, 8-10, 12-16, 18-20, 22, 24-26, 29-30, and 32 are rejected under 35 U.S.C. § 102(b). Claims 2, 6-7, 11, 17, 21, 23, 27-28, and 31 are rejected under 35 U.S.C. § 103(a). Claim 4 has been canceled. Claims 22-32 have been previously added.

Independent claim 1 is rejected as being anticipated by Van De Berg (U.S. Pat. No. 5,907,812) under 35 U.S.C. § 102(b). Claim 1, as amended, recites "A method of selecting a plurality of frequency bands for use in a desired wireless communication from among a plurality of frequency bands available to be used for the desired wireless communication, comprising: passively monitoring the plurality of frequency bands to determine interference information for each of the frequency bands; *combining the interference information of said each of the frequency bands to produce a signal quality indication*; and *selecting the plurality of frequency bands for the desired wireless communication in response to the signal quality indication*." (emphasis added). This method of summing interference levels of individual frequency bands is described in detail at page 8, lines 3-8 and at page 10, lines 2-15 of the instant application.

Van De Berg does not anticipate claim 1 for the following reasons. First, Van De Berg DOES NOT DISCLOSE the step of "combining the interference information of said each of the frequency bands to produce a signal quality indication." Examiner cites Figure 7 steps 2-6 and column 9 lines 4-44 as an anticipatory disclosure. Therein, Van De Berg discloses comparison of individual narrow band frequencies against a threshold value to determine that each narrow band frequency is essentially free of interference. For example, Van De Berg discloses "At each carrier frequency position, a detection is carried out for the presence of interference, indicated by step 3 'INTERFERENCE DETECTION'. With decision step 4 'INTERFERENCE FREE', it is tested whether the particular carrier frequency position is essentially free of interference; i.e. such that a reliable communication could be established over this part of the radio frequency band. If negative 'No', scanning has to be proceeded at another carrier frequency position. In the affirmative 'Yes', the result of the scan at the particular carrier frequency position will be

processed in step 5 'FORM BAND'." (col. 9, lines 6-17). Thus, Van De Berg detects interference at a carrier frequency position at step 3 of Figure 7. Then a pass/fail decision is made at step 4 for that carrier frequency position based only on interference detected at that carrier frequency position. Van De Berg DOES NOT DISCLOSE that interference detected at any other carrier frequency position is considered in the pass/fail decision at step 4. Each carrier frequency is either accepted or rejected at step 4 based only on the interference detected at that frequency. Thus, Van De Berg DOES NOT DISCLOSE to disclose the step of "combining the interference information of said each of the frequency bands to produce a signal quality indication" as required by claim 1.

Second, Van De Berg DOES NOT DISCLOSE producing a signal quality indication as required by claim 1. Here, the "signal quality indication" is produced in the step of "combining the interference information of said each of the frequency bands to produce a signal quality indication." Since Van De Berg DOES NOT DISCLOSE the step of combining, Van De Berg also DOES NOT DISCLOSE producing the signal quality indication as required by claim 1.

Finally, Van De Berg DOES NOT DISCLOSE the step of "selecting the plurality of frequency bands for the desired wireless communication in response to the signal quality indication" as required by claim 1. Van De Berg selects each individual carrier frequency based only on the interference detected at step 3 (Figure 7) for that carrier frequency. Van De Berg DOES NOT DISCLOSE the step of "combining the interference information of said each of the frequency bands to produce a signal quality indication." Thus, Van De Berg necessarily DOES NOT DISCLOSE "selecting the plurality of frequency bands for the desired wireless communication in response to the signal quality indication" as required by claim 1. For all the foregoing reasons, applicants respectfully submit that Van De Berg does not anticipate independent claim 1 of the present invention. Thus, claim 1 and depending claims 3, 5, 8-10, 12 are patentable over Van De Berg under 35 U.S.C. § 102(b).

Independent claim 13 is rejected as being anticipated by Van De Berg. Independent claim 13 recites "A wireless communication station, comprising: an antenna for use in wireless communications; a band selection controller coupled to said antenna for selecting a frequency band for use in a desired wireless communication from among a plurality of frequency bands available to be used for the desired wireless communication; said band selection controller operable for passively monitoring at least one of the available frequency bands to determine whether the at least one frequency band is acceptable for the desired wireless communication; *said band selection controller operable for selecting a bandwidth of the at least one of the available frequency bands*; and said band selection controller further operable for selecting the at least one frequency band for the desired wireless communication if the at least one frequency band is determined to be acceptable." (emphasis added). This method of bandwidth selection is described in detail at page 4, lines 9-21 and page 10, lines 2-5. For example, bandwidth selection may be used for RSSI (received signal strength indication) measurement to avoid microwave oven interference. (page 4, lines 19-21).

Van De Berg DOES NOT DISCLOSE bandwidth selection of the present invention. Examiner states "e.g., the bandwidth of the at least one available frequency band is selected, if deemed acceptable, to form, by itself or in combination with other acceptable available frequency bands, the at least one frequency band for the desired communication." (OA 11/3/04, page 5, last paragraph). Applicants respectfully disagree. Van De Berg discloses selection of a carrier frequency position at steps 2-4 of Figure 7. (col. 9, lines 6-13). Van De Berg DOES NOT DISCLOSE bandwidth selection. Moreover, Examiner fails to cite any relevant disclosure of Van De Berg concerning bandwidth selection by a band selection controller. Applicants respectfully submit that Examiner's *ipse dixit* is insufficient to justify a rejection under 35 U.S.C. § 102(b). Examiner has characterized a combination of scanning means 52 and central control and application logic 51 (Figures 11-13) as a band selection controller of the present invention. If Examiner has identified any teaching or suggestion by Van De Berg related to bandwidth selection by a band selection controller, please identify the anticipatory disclosure. Otherwise, applicants respectfully request

withdrawal of the instant rejection of claim 13 and depending claims 14-16 and 18-20 under 35 U.S.C. § 102(b).


Van De Berg discloses "These and other objects, advantages and features of the present invention are provided by a method for radio communication in a predetermined radio frequency band between a first transceiver unit and a second transceiver unit. The units are arranged to transmit and receive over a communication frequency band modulated at a carrier frequency, whereas the frequency bandwidth of the radio frequency band is larger than the communication frequency band." (col. 2, lines 56-64). The radio frequency band and the communication frequency band, therefore, are both predetermined. Thus, the communication frequency bandwidth of Van De Berg cannot be selected by a combination of scanning means 52 and central control and application logic 51 as suggested by Examiner. It is fixed by the communication system. In fact, the preamble of each of Van De Berg's independent claims recites "radio communication in a *predetermined radio frequency band*." (emphasis added). Van De Berg DOES NOT DISCLOSE bandwidth selection and specifically teaches that bandwidth is predetermined in the text of the specification and in the claims. Thus, claim 13 and depending claims 14-16 and 18-20 are patentable under 35 U.S.C. § 102(b) over Van De Berg.

Independent claim 22 is rejected as being anticipated by Van De Berg. Claim 22 recites "A method of selecting a frequency band for use in a desired wireless communication from among a plurality of frequency bands to be used for the desired wireless communication, comprising: selecting the frequency band; *selecting a bandwidth of the frequency band*; passively monitoring the frequency band to determine whether the frequency band is acceptable for the desired wireless communication; and selecting the frequency band for the desired wireless communication if the frequency band is determined to be acceptable by said passive monitoring." (emphasis added). These limitations are described in detail at page 4, lines 9-14 and page 10, lines 2-5. As previously discussed, Van De Berg DOES NOT disclose bandwidth selection. Thus, claim 22 and depending claims 24-26, 29-30, and 32 are patentable under 35 U.S.C. § 102(b) over Van De Berg.

Applicants acknowledge the rejections of claims 2, 6-7, 11, 17, 21, 23, 27-28, and 31 under 35 U.S.C. § 103(a), but consider them moot for all the foregoing reasons.

In view of the foregoing, applicants respectfully request reconsideration and allowance of claims 1-3 and 5-32. If the Examiner finds any issue that is unresolved, please call applicants' attorney by dialing the telephone number printed below.

Respectfully submitted,



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